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36738	7590	09/21/2009	EXAMINER	
ROGZIT & ASSOCIATES			SHIBRU, HELEN	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/898,422	<b>Applicant(s)</b> SHINOHARA, HIROAKI
	<b>Examiner</b> HELEN SHIBRU	<b>Art Unit</b> 2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 12 May 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12,13,15,17-19,28 and 29 is/are pending in the application.  
 4a) Of the above claim(s) 29 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 12,13,15,17-19, and 28 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendments, filed 05/12/2009, have been entered and made of record.

Claims 12-13, 15, 17-19 and 28-29 are pending.

### ***Response to Arguments***

2. It is noted that the amended claims are patentable over Mankovitz, Killian, and Allard as set forth in the last Office Action. However, the amended claims are rejected under new ground of rejection as set forth below.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 12-13, 15, 17-19, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz (US Patent No. 5,541,738) in view Killian (US Patent No. 6,613,316) and further in view of Allard (US PG PUB 2004/0005923) and Walton (US PG PUB 2001/0019367).

Regarding claim 12, Mankovitz discloses a system for linking content to viewing and recommendations, comprising:

an input device (see figure 6) for selecting alphanumeric characters (See figure 1 remote (75) and figure 7 where Mankovitz shows the capability of displaying program guide information where the program guide information include text information such as

title of the program, and see also col. 11 lines 46-52, see also col. 3 line 60-col. 4 line 8 where Mankovitz discloses a plurality of alphanumeric characters, see also col. 1 lines 52-57 and col. 11 lines 46-48 where Mankovitz discloses the program guide is available as a prerecorded guide on a tape to be purchased, see also col. 10 lines 45-51 where Mankovitz teaches the user selects programs to be recorded from the program guide text either by selecting and entering the information related to the "PULSECODE<sup>TM</sup>", or starting recording if the selected program is being broadcast (col. 12 lines 47-50)); that are presented on a video display (see col. 11 lines 62-col. 12 line 29 and figure 8 (guide menu displayed) where the prior art teaches the user selects from the category guide menu using the enter button to select the highlighted menu entry) means for receiving the alpha numeric character (see the capability of displaying the video information on a display apparatus in figure 1 and col. 4 lines 12-15); means responsive to the means for receiving for automatically accessing a source of recommended viewing (see col. 10 lines 40-51 where Mankovitz describes the capability of performing schedule recording of broadcasted programs in the recorder based on user selection of specific programs information from the displayed program guide information).

Claim 12 differs from Mankovitz in that the claim further requires a system for linking content to shopping recommendation.

In the same field of endeavor Killian discloses and means responsive to the means for selecting for automatically accessing a source of recommended viewing and/or shopping (see col. 7 lines 36-40 where Killian discloses interactive television programming such as for shopping, advertising, see col. 7 lines 49-64 where Killian

discloses constructing and modifying viewer profiles according to user preferences (referring to selection), and constructing electronic schedule displays according to viewer profiles and selected program listing information, see figure 3 suggest module (76) and see col. 10 line 61-66 where Killian discloses suggest module 76 access program listing information to generate preferred programming schedule that may be desirable for viewing or recording (referring to recommended viewing), see also col. 11 lines 50-53 where Killian discloses suggest module access programs using user profile).

Therefore in light of the teaching in Killian it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mankovitz by including shopping recommendation in order for the viewer to get desirable additional products.

Claim 12 further differs from both Mankovitz and Killian in that the claim further requires the alpha numeric characters (program guide) are part of a DVD content.

Although Mankovitz discloses the program guide may have been purchased with the tape (see col. 11 lines 46-48), Mankovitz fails to disclose the program guide may store or purchased with DVD.

In the same field of endeavor Allard discloses storing alphanumeric string on a DVD (see paragraph 113). See also paragraph 0126 and figures 7 and 18 where the prior art teaches the content of the DVD are displayed. Therefore it would have been obvious to one of ordinary skill in the video/recording and reproducing art at the time the invention was made to substitute Mankovitz tape with DVD in order to increase

recording density. See also the additional prior arts cited below that supports storing alphanumeric character in DVD is well known.

Claim 12 further differs from the above proposed combinations in that the claim further requires highlighting the characters using the input device and pressing a selector key on the input device.

Although Mankovitz teaches select the highlighted menu entry, Mankovitz fails to specifically disclose highlighting the characters.

In the same filed of endeavor Walton teaches a user views the EPG on the monitor and select a TV program which he wishes to record by highlighting and pressing an enter button on remote controller (see paragraph 0060). Therefore in light of the teaching in Walton it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above proposed combinations by highlighting a character and selecting using a remote controller in order to receive selected program.

Regarding claim 13, Killian discloses means for storing at least some of the content (see abstract and claim 20 of Mankovitz). See also Killian's platform 12 and recorder 20 in figure 1, and col. 3 lines 7-12, platform 12 supports to record viewing opportunities.

Regarding claim 15, Mankovitz discloses means for selecting is a user input device (see abstract and claim 20). See also Killian figure 1 component 42 and col. 4 lines 55-64 and col. 9 lines 36-42).

Regarding claim 17, Killian discloses the means for receiving includes a personal video recorder (see figure 1 component 26 and col. 4 lines 55-59). See also Mankovitz's figure 1 VCR 1 and col. 10 lines 40-51.

Regarding claim 18, Killian discloses the feature of the source of recommended viewing and/or shopping communicates with a WAN as specified thereof is present in Killian. (See Killian's Figure 1, component 14 and also col. 3 lines 43-50, the internet shown in figure 1 to be linked to platform 12 via link 14 is connected to program listing database 48 through server 46, which contains television programming information).

Regarding claim 19, Killian discloses the feature of playing media stored content on a storage medium and sending the same to a television as specified thereof is present in Killian. (See Killian's Figure 1, components 20, 26, and 40). Mankovitz also discloses the capability of displaying the video information on a display apparatus (see figure 7).

Regarding claim 28, the limitation of claim 28 can be found in claim 12. Therefore claim 28 is analyzed and rejected for the same reason as discussed in claim 12 above. It is also Noted that Allard teaches the metadata stored in the DVD includes an artist name, see paragraph 112. See also figure 2 of Allard and controller 30 in Mankovitz.

5. Claims 12-13, 15, 17-19, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz (US Patent No. 5,541,738) in view Killian (US Patent No. 6,613,316) and further in view of Collart (US PG PUB 2006/0181965).

Regarding claim 12, Mankovitz discloses a system for linking content to viewing and recommendations, comprising:

an input device (see figure 6) for selecting alphanumeric characters (See figure 1 remote (75) and figure 7 where Mankovitz shows the capability of displaying program guide information where the program guide information include text information such as title of the program, and see also col. 11 lines 46-52, see also col. 3 line 60-col. 4 line 8 where Mankovitz discloses a plurality of alphanumeric characters, see also col. 1 lines 52-57 and col. 11 lines 46-48 where Mankovitz discloses the program guide is available as a prerecorded guide on a tape to be purchased, see also col. 10 lines 45-51 where Mankovitz teaches the user selects programs to be recorded from the program guide text either by selecting and entering the information related to the "PULSECODE<sup>TM</sup>", or starting recording if the selected program is being broadcast (col. 12 lines 47-50)); that are presented on a video display by highlighting the characters using the input device and pressing the selector key on the input device (see col. 11 lines 62-col. 12 line 29 and figure 8 (guide menu displayed) where the prior art teaches the user selects from the category guide menu using the enter button to select the highlighted menu entry) means for receiving the alpha numeric character (see the capability of displaying the video information on a display apparatus in figure 1 and col. 4 lines 12-15); means responsive to the means for receiving for automatically accessing a source of recommended viewing (see col. 10 lines 40-51 where Mankovitz describes the capability of performing schedule recording of broadcasted programs in the recorder based on user selection of specific programs information from the displayed program guide information).

Claim 12 differs from Mankovitz in that the claim further requires a system for linking content to shopping recommendation.

In the same field of endeavor Killian discloses and means responsive to the means for selecting for automatically accessing a source of recommended viewing and/or shopping (see col. 7 lines 36-40 where Killian discloses interactive television programming such as for shopping, advertising, see col. 7 lines 49-64 where Killian discloses constructing and modifying viewer profiles according to user preferences (referring to selection), and constructing electronic schedule displays according to viewer profiles and selected program listing information, see figure 3 suggest module (76) and see col. 10 line 61-66 where Killian discloses suggest module 76 access program listing information to generate preferred programming schedule that may be desirable for viewing or recording (referring to recommended viewing), see also col. 11 lines 50-53 where Killian discloses suggest module access programs using user profile).

Therefore in light of the teaching in Killian it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mankovitz by including shopping recommendation in order for the viewer to get desirable additional products.

Claim 12 further differs from both Mankovitz and Killian in that the claim further requires the alpha numeric characters are part of a DVD content.

In the same field of endeavor Collart teaches actors/actresses name are part of a DVD content (see figure 3 where the prior art shows the user selects "Tom Hanks" from displayed Filmography DVD-video menu 306). Collart further teaches the alphanumeric

character is highlighted. See also paragraphs 0042 and 0065, figure 4 step 402, figure 3, operations 4 and 5. Therefore in light of the teaching in Collart it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above proposed combination by providing an actor's name (alphanumeric character) as part of DVD content and highlighting the character and perform selection function in order to initiate a communication to determine if updated content is available.

Regarding claim 13, Killian discloses means for storing at least some of the content (see abstract and claim 20 of Mankovitz). See also Killian's platform 12 and recorder 20 in figure 1, and col. 3 lines 7-12, platform 12 supports to record viewing opportunities.

Regarding claim 15, Mankovitz discloses means for selecting is a user input device (see abstract and claim 20). See also Killian figure 1 component 42 and col. 4 lines 55-64 and col. 9 lines 36-42).

Regarding claim 17, Killian discloses the means for receiving includes a personal video recorder (see figure 1 component 26 and col. 4 lines 55-59). See also Mankovitz's figure 1 VCR 1 and col. 10 lines 40-51.

Regarding claim 18, Killian discloses the feature of the source of recommended viewing and/or shopping communicates with a WAN as specified thereof is present in Killian. (See Killian's Figure 1, component 14 and also col. 3 lines 43-50, the internet shown in figure 1 to be linked to platform 12 via link 14 is connected to program listing database 48 through server 46, which contains television programming information).

Regarding claim 19, Killian discloses the feature of playing media stored content on a storage medium and sending the same to a television as specified thereof is present in Killian. (See Killian's Figure 1, components 20, 26, and 40). Mankovitz also discloses the capability of displaying the video information on a display apparatus (see figure 7).

Regarding claim 28, the limitation of claim 28 can be found in claim 12. Therefore claim 28 is analyzed and rejected for the same reason as discussed in claim 12 above. See also figure 7 of Collart.

***Election/Restrictions***

6. Newly submitted claim 29 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claim recites, "a system for linking content to viewing and/or shopping recommendations comprising: an input device for selecting an image of a scene from DVD content; a processor receiving the image and classifying the image using image recognition technology to render a classification of the image; the processor automatically accessing a source of recommended viewing and/or shopping based on the classification of the image to return visible information based on the classification of the image." The original claims do not require the feature underlined above.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 12-19 and 28, drawn to a system for linking content to viewing and/or shopping recommendations having an input device for selecting

- alpha numeric characters that are presented on a video display and that are part of a DVD content, classified in class 386, subclass 125.
- II. Claim 29, drawn to a system for linking content to viewing and/or shopping recommendations having a processor for receiving the image and classifying the image using image recognition technology to render a classification of the image and for automatically accessing a source of recommended viewing and/or shopping based on the classification of the image to return visible information based on the classification of the image, classified in class 725, subclass 37.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as linking content to viewing and/or shopping recommendations using an input device to selecting alpha numeric characters that are presented on a video display and that are part of a DVD content and does not require a processor for receiving the image and classifying the image using image recognition technology to render a classification of the image and for automatically accessing a source of recommended viewing and/or shopping based on the classification of the image to return visible information based on the classification of the image of Group II for patentability and subcombination II has separate utility such as linking content to viewing and/or shopping recommendations

using processor to receive the image and to classify the image using image recognition technology to render a classification of the image and to automatically access a source of recommended viewing and/or shopping based on the classification of the image to return visible information based on the classification of the image and does not require an input device for selecting alpha numeric characters that are presented on a video display and that art part of a DVD content of Group I for patentability. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 29 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hoath (US PG PUB 2003/0208757) teaches selecting a particular EPG by highlighting a portion using a remote control.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/  
Examiner, Art Unit 2621  
August 07, 2009

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